

MISSOURI DEPARTMENT OF
HEALTH AND SENIOR SERVICES

FAMILY CARE SAFETY REGISTRY
ANNUAL REPORT

FISCAL YEAR 2002

FAMILY CARE SAFETY REGISTRY

ANNUAL REPORT – FY 2002

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INTRODUCTION

Families are faced with making a difficult decision when hiring someone to help care for a child, elderly or disabled person, whether it is locating child care, placing a family member in a nursing home, or finding a caregiver to come into their private home to provide care. Many times this caregiver has unsupervised access to these most vulnerable family members. The family may have limited time to form an opinion about the suitability of a caregiver and may have little or no opportunity to make inquiries into their background. Several state agencies currently offer information that can assist the family with making a decision, but in order to obtain it families are required to complete and submit forms and it may take anywhere from several days to several weeks to receive background screening information.

The Missouri Department of Health and Senior Services, in coordination with the departments of Social Services, Public Safety, Mental Health and Corrections, established the Family Care Safety Registry and Access Line in accordance with the Family Care Safety Act (section 210.900 to 210.936, RSMo).

The Family Care Safety Registry (Registry) serves as a resource for background screening information maintained by the Missouri State Highway Patrol (MSHP), Division of Family Services (DFS), Department of Mental Health (DMH) and the Department of Health and Senior Services (DHSS). Those wishing to hire a child-care, elder-care or personal-care worker may contact the Registry using a toll-free access line and obtain background information about a caregiver. Information accessed by the Registry includes: specific criminal convictions, substantiated claims of child abuse/neglect, persons on the DHSS Employee Disqualification List, persons on the DMH Employee Disqualification Registry and foster parent license denials, revocations and suspensions.

In addition to the needs of families, many employers of child-care, elder-care and personal-care workers are required to obtain background screening information in order to obtain or maintain licensure. Employers, such as child-care centers and nursing homes, often have difficulty in recruiting and maintaining skilled staff. The delays they currently experience in obtaining background screening results can impact on their ability to hire and retain staff. These employers are required to contact several state agencies in order to comply with statutes or regulations for background screening. The Registry offers these employers an alternative to their current method of obtaining background screening information.

The Registry became operational January 1, 2001 and utilizes a computer interface to streamline the information request process to obtain background information from various state agencies. The Registry maintains a toll-free access line to respond to requested information and allows the requestor to receive an immediate response as often as they like at no cost. The access line is staffed from 7:00 a.m. to 6:00 p.m., Monday through Friday.

REGISTRY OPERATIONS

Child-care, elder-care and personal-care workers are required to register within 15 days of hire. The Registry staff data enter the worker's name, address, social security number and date of birth information into a computer system. That is the only information that is stored in the Registry's computer system.

The Registry performs an electronic background screening using a computer interface to obtain criminal history, child abuse/neglect, DHSS Employee Disqualification List, DMH Employee Disqualification Registry and foster parent license information. The result of the background screening reflects real-time information from these computer files. The worker receives the background screening results at the time they complete registration.

Employers (including family members) can contact the Registry using a toll-free access line, by FAX or mail and obtain a background screening on workers who are registered. A new background screening is obtained using the computer interface each time a request is received. This means if information was added or deleted from the computer files, by an agency interfaced (DFS, DHSS, DMH, MSHP), the addition or deletion will be reflected in the result reported. Both the requestor and the worker receive written notification of the background screening results provided. The worker is also provided with the name and address of the employer who made the request.

The Registry is a request-driven system, so information is provided to employers only when they contact the Registry. The Registry is not authorized to proactively contact employers or regulatory agencies to alert them of a change in the background of an individual.

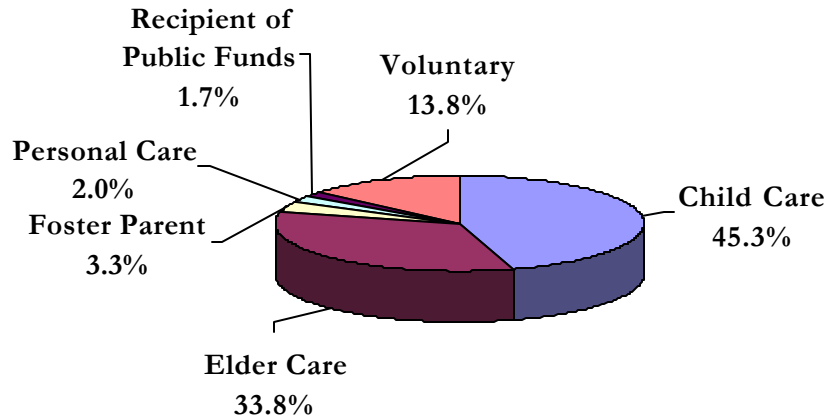
Following is a summary of Registry's activity since January 1, 2001:

- 112,284 registration forms submitted
- 102,804 registrations processed (91.1%)
- 340 in pending status (0.3%)
- 8,517 are received but not yet processed (7.5%)
- 3,348 of registered workers had "hits" (3.3%)
- 61,043 requests for background screening processed on registered workers (58.5% of those registered)
- 1,648 calls received on the toll-free access line in May, 2002 (the last month for which data is available).

Registrant demographic information is represented in the following chart.

Registry Registrations by Worker Occupation

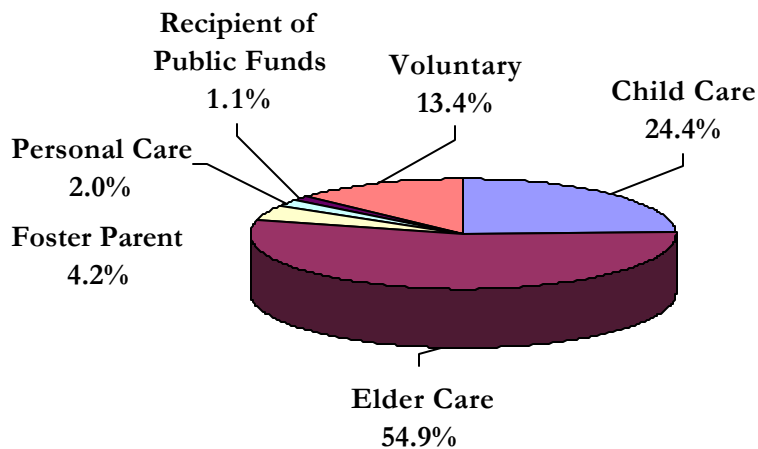
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Following is a chart that shows the occupation of those registered individuals with a “hit” or background screening result.

Registrant Background Screening Results (“Hits”) by Worker Occupation

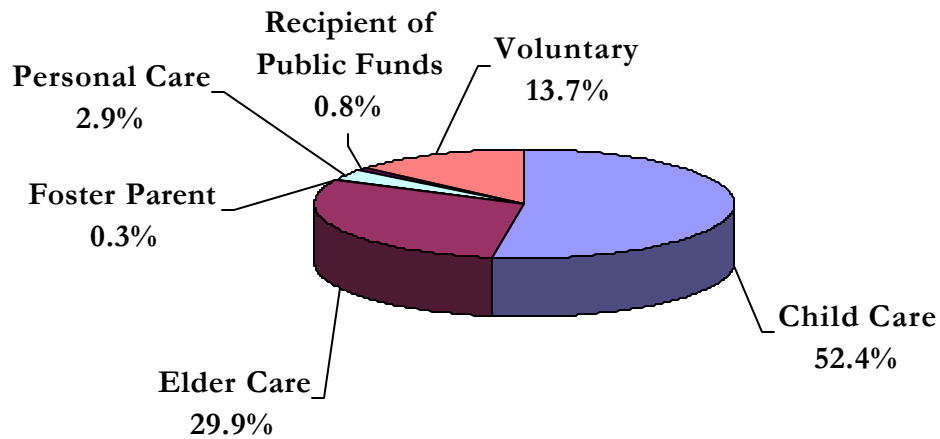
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TOLL-FREE ACCESS LINE

The Registry makes a toll-free access line available to families and employers for the purpose of obtaining background screening results. The access line is staffed by nine (9) health professionals who assist callers not only with obtaining background screening results, but also with identifying other resources for information. The Registry currently receives an average of 85 calls daily. Since January 1, 2001, the Registry received 54,107 requests for a background screening from families and other employers. 3,054 (3.3%) of these workers had one or more “hits” or results indicated in the background screening. The following chart describes the occupation of those individuals who had a background screening performed by employers.

Registry Background Screening Requests



ENHANCEMENTS

SB 48 passed during the 2001 legislative session mandated that the Registry implement the following:

- By January 1, 2003, include information from the DMH Employee Disqualification Registry in background screening information provided.
- By August 28, 2001, require in-home service providers under contract with the DHSS Division of Senior Services to register.
- By August 28, 2001, expand information obtained from MSHP criminal history to include not only felony but also misdemeanor offenses authorized in Chapters 198, 334, 560, 565, 566, 568, 573, 575, 578, RSMo.
- Require personal-care workers hired on or after January 1, 2002 who provide services or supports necessary for a physically or mentally disabled individual to enter and maintain employment or to live independently to register with the Registry.

The Registry successfully implemented each of these mandates. In fact the DMH Employee Disqualification Registry interface was implemented February 19, 2002, almost an entire year ahead of schedule.

SB 923 passed during the 2002 legislative session and is awaiting consideration by Governor Holden. This bill includes language which will exempt foster parents from payment of the \$5.00 registration fee for the Registry. The loss of revenue will not adversely affect the Registry as any fees collected are deposited directly into the Missouri State Highway Patrol's criminal history fund. The MSHP estimates the loss in revenue to be \$5,000 annually. Since it is challenging for the state to recruit and retain individuals to serve as foster parents, especially for emergency placements and to care for special needs children, removing this financial burden from foster parents is expected to improve the state's ability to license additional foster parents.

If signed into law, the Registry will require that foster parents submit the Worker Registration Form and a copy of their social security card only. 19 CSR 30-80.030 will be amended to reflect the waiver of registration fee for foster parents. Notification of foster parents regarding this change will be coordinated with the DFS.

IDENTIFIED BARRIERS

Section 210.937, RSMo., terminates the provisions of the Family Care Safety Registry Act on January 1, 2004. The Registry has been widely accepted as a background screening resource for families, licensed child-care providers and for employers of nursing home, home health care and hospice staff. To continue to meet these needs the Family Care Safety Registry Act authorization must be extended.

However, due to limitations in access to criminal history information, the Registry is unable to completely fulfill the requirements of many employers such as contractors of the DHSS, DMH, DFS and Division of Vocational Rehabilitation. Additional barriers that impact the Registry's ability to serve as a point of entry to obtain background screening information maintained by the various state agencies include:

1. Comprehensive criminal background information

The MSHP responds to employer requests for information by providing the subject's complete Missouri criminal history record (or "rap sheet") pursuant to section 43.540.1(1) RSMo. This criminal history record, which includes all open records for felony and misdemeanor offenses, differs from the Registry background screening which is currently limited to only specific offenses (chapters 198, 334, 560, 565, 566, 568, 569, 573, 575, 578, RSMo). Even though the signing of SB 48 authorized the Registry to reveal both misdemeanor and felony convictions for the above chapters, the information is still limited to specific offenses and may not include other offenses that may be relevant to one's ability to provide care. Employers frequently examine all open criminal history information maintained by MSHP. State agencies specifically examine chapters 570 (STEALING AND RELATED OFFENSES), 572 (GAMBLING), 574 (OFFENSES AGAINST PUBLIC ORDER), 576 (OFFENSES AFFECTING GOVERNMENT) AND 577 (PUBLIC SAFETY OFFENSES) for investigative or regulatory purposes. For example, only recently a nurse was accused of stealing the identities of several elderly clients to fraudulently open bank accounts and secure credit cards. However, if this nurse is convicted the information would not be revealed since the Registry background screening does not include chapter 570 STEALING and RELATED OFFENSES (sections 570.145 "Financial exploitation of the elderly" and 570.223 "Identity theft").

The disparity in information will continue to grow as SB 1070, currently pending the Governor's signature, would authorize the MSHP to include information on individuals registered on the Sex Offender Registry in their release of criminal history. Again, because the Registry is not authorized to access offenses under chapter 589.400 to 589.425, RSMo., background screenings obtained from the Registry will not contain information from the Sex Offender Registry.

Since a registrant's complete criminal history is not available from the Registry, DFS, DMH and DHSS will continue to require employers to obtain a criminal conviction record from MSHP to satisfy licensure requirements. Other employers who require complete criminal history will also need to continue requesting an employee's complete open criminal history from the MSHP to satisfy their own personnel rules or requirements. Expanding the Registry's authority to allow their criminal history background screening to include all open criminal history information would reduce duplication and expense for the employer and confusion and expense for the workers as well.

2. Missouri driving records

It may be essential in certain circumstances for the employer to obtain driving record information, such as municipal court DWI convictions, as part of a background screening when the individual would be responsible for transporting children, the elderly or disabled. Employers are currently able to contact the Department of Revenue (DOR) to request a copy of an individual's driving record for this purpose. Because the Registry is not authorized to obtain driving record information, employers must continue their current process to obtain driving record information from the DOR. Expanding the Registry's authority to include driving records would reduce duplication and expense for certain types of employers.

3. National criminal history

The criminal history information currently available from the MSHP is, for the most part, limited only to Missouri criminal convictions. Because of the real possibility of a person disqualified for employment in one state moving to another state and seeking similar employment, many employers and licensure agencies feel there is significant risk if the background screening does not reflect an individual's complete criminal history. Several state licensure agencies require that a FBI background check using fingerprints be obtained if the individual has lived in another state in the recent past. The Volunteers for Children Act (VCA), Pub L. 105-251 authorizes state law enforcement agencies to release criminal history information to employers for employment purposes or for the emergency placement of children in the foster care system. This federal law only authorizes the agency to reveal to an employer whether the individual in question is listed in the FBI criminal history records. The subject of the background check is the only individual

who may obtain specific information about the criminal history. Authorizing the Registry to obtain or release information from the FBI under these special circumstances would provide a centralized point for the request and release of information allowed by the VCA.

4. Required registration of existing employees

The Family Care Safety Act requires child-care, elder-care workers employed on or after January 1, 2001 and personal-care workers employed on or after January 1, 2002 to register within 15 days of employment. This means that workers currently employed are not required to register unless they change positions or employers. Because employers may only obtain a background screening from the Registry on registered workers, the employer must continue their current process to obtain a background screening on individuals employed prior to those dates.

5. Workers on employee disqualification lists

The DHSS maintains a list of former employees of nursing homes, home health and hospice agencies that are disqualified from employment by licensed providers. These individuals have been found to have abused, neglected or financially exploited an elderly person. The DMH maintains a list of individuals who have been found to have abused, neglected or financially exploited a person receiving services from the DMH. Currently, licensed employers are required to initiate a request to the DHSS and/or DMH within two (2) days of employment to determine whether a new employee is listed on their disqualification list. Even though a Registry background screening does report results from these disqualification lists, a licensed employer will not be able to obtain information within the two day time-frame required unless the employee is already registered. Licensed employers recognize this delay as a barrier to using the Registry as a centralized background screening service and continue to contact these state agencies directly for the disqualification list information

6. Joint responsibility for registration

Section 210.906.1, RSMo., places the responsibility to register with the Family Care Safety Registry on the individual worker, rather than on their employer. Communicating this requirement to the worker is difficult, if not impossible, without the cooperation and assistance of their employer. The Registry has contacted provider organizations, and conducted targeted mailings to licensed child-care providers, nursing homes, home health care, hospice, and foster parents. However, informing the worker of their requirement to register will continue to be a challenge.

7. Improve electronic transfer of information

DFS maintains foster parent license information using a mainframe computer. Due to technology limitations, this information is not available using the interface developed for the other background screening data. The DFS has made the information available electronically by granting access to the mainframe data system. Due to inconsistent or incomplete data entry of social security number and name, obtaining this information is a cumbersome and time-consuming process, which negatively impacts the turnaround time for a background screening from the Registry.

Use of the Internet is another method of improving response time. Several state agencies provide information to the public via the Internet. The Registry will implement a web site in FY 03 that will allow employers to determine whether an individual is registered, thereby saving time and reducing the duplications of registrations. The Registry is currently analyzing the potential for employers to submit a request for background screening results via the Internet.

8. Additional background screening information resources

The Registry identified additional sources of information that employers currently access when making a hiring decision. This information includes licensure and certification information maintained by various state agencies, including home health facilities, hospice facilities, hospitals, ambulatory surgical centers, nursing home administrators, health care professionals (nurses, physicians, therapists, social workers, etc.), and teachers. Allowing access to this information from a central source such as the Registry would further reduce duplication and expense to employers and possibly expedite their hiring process.

RECOMMENDATIONS

The Department of Health and Senior Services recommends extending the Registry's authorization in the following:

1. Extend the termination date in section 210.937, RSMo., beyond January 1, 2004 in order to provide for the ongoing operation of the Registry.
2. Authorize access to complete open criminal history information currently available through MSHP.
3. Authorize access to Missouri driving record information currently available through the DOR.
4. Authorize access to Sex Offender Registry information.
5. Authorize the Registry to have access to national criminal history information as authorized under the Volunteers for Children Act.
6. Require child-care and elder-care workers employed prior to January 1, 2001 and personal-care workers employed prior to January 1, 2002 to register.
7. Require all workers currently placed on the DHSS and DMH disqualification lists to register. In addition, require workers placed on the disqualification lists to register as they are added to the disqualification lists.
8. Require those persons or facilities licensed by a state agency to become responsible for registration of workers they employ. Also, require that state licensure agencies monitor compliance as part of licensure activity.
9. Analyze the DFS foster parent data collection system to determine the feasibility of enhancing the current system or developing a new data collection system in order to allow transfer of background screening information through use of an electronic interface.
10. Investigate the feasibility of enabling Internet access to the Registry.
11. Authorize the Registry to provide licensure and certification information maintained by various state agencies, including home health facilities, hospice facilities, hospitals, ambulatory surgical centers, nursing home administrators, health care professionals (nurses, physicians, therapists, social workers, etc.), and teachers.